

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KYLE PETERSEN,

Plaintiff,

v.

ANTHONY SIMS, JR.,

Defendant.

No. 1:20-cv-00884-DAD-EPG (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 35)

Plaintiff Kyle Petersen is a federal prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971). The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 10, 2022, the assigned magistrate judge issued findings and recommendations, recommending that defendant's motion to dismiss (Doc. No. 32) be granted and that plaintiff's complaint be dismissed as *Heck* barred, without prejudice to plaintiff refiling this lawsuit should he succeed in invalidating his conviction and sentence. (Doc. No. 35.) The findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within twenty-one (21) days after service. (*Id.* at 10.) Neither party has filed any objections with the court and the time in which to do so has now passed.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings
3 and recommendations to be supported by the record and by proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations issued on March 10, 2022 (Doc. No. 35) are
6 adopted;
- 7 2. Defendant's motion to dismiss (Doc. No. 32) is granted;
- 8 3. Plaintiff's complaint is dismissed as *Heck* barred, without prejudice to plaintiff
9 refiling this lawsuit if he is successful in invalidating his conviction and sentence;
10 and
- 11 4. The Clerk of the Court is directed to close this case.

12 IT IS SO ORDERED.

13 Dated: May 3, 2022

14 
UNITED STATES DISTRICT JUDGE